

Remarks

Claims 5 and 6 are cancelled and claims 8 and 9 are added. Claims 7 to 9 are pending in this application of which claim 7 is withdrawn.

Claim 5 was rejected under 35 USC 112, second paragraph, because there was no indication as to how the misfire detection is implemented. Accordingly, claim 8 is added to incorporate therein the method step of:

"detecting said misfires when said segment times exceed a predetermined threshold value."

With the inclusion of the above feature and limitation, claim 8 should now be definite as required by the statute.

Claim 5 was rejected under 35 USC 102(b) as being anticipated by Dietz et al. The following will show that new claim 8 patentably distinguishes the invention over this reference.

At column 3, lines 47 to 49, Dietz et al teach that the position, length and number of segments can be changed specifically to an application. However, taken as a whole, Dietz et al does not reveal what kind of application that could be. Specifically, it does not disclose that this application might be an operating parameter and furthermore, Dietz et al does not disclose that the operating parameter to be used is the engine rpm and/or the engine load. Accordingly, applicants have added claim 8 to include this limitation so that the operating parameter is the engine load and/or the engine rpm. Thus,

claim 8 includes the feature and limitation of:

"considering the position of angular segments relative to a reference point (TDC) of the movement of the piston of the engine which are dependent upon at least one operating parameter of the engine wherein the one parameter(s) is the engine load and/or the engine rpm;" (emphasis added)

With this feature and limitation, claim 8 should now patentably distinguish the invention over Dietz et al and be allowable.

Added claim 9 incorporates all the features and limitations of claim 8 plus all of the features of claim 6 which is cancelled.

Claim 9 is even further remote from Dietz et al so that this claim too should now be allowable.

Reconsideration of the application is earnestly solicited.

Respectfully submitted,



Walter Ottesen
Reg. No. 25,544

Walter Ottesen
Patent Attorney
P.O. Box 4026
Gaithersburg, Maryland 20885-4026

Phone: (301) 869-8950

Date: January 6, 2004